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RISK MANAGEMENT DIVISION PAC

AGREEMENT OF RELEASE OF ALL CLAIMS

This Agreement of Release of All Claims ("Agreement") is between on the one hand Lorraine Watchman, in her capacity as Guardian of Gerilynn Watchman, and Gerilynn Watchman, a minor person; Lillian Williams in her capacity as Guardian of Danielle Crain, and Danielle Crain, a minor person; Lorraine Watchman, in her individual capacity; and Gerald Watchman, in his individual capacity ("Plaintiffs"); and on the other hand the New Mexico Department of Public Safety ("NMDPS") and the Risk Management Division of the General Services Department of the State of New Mexico ("RMD") and Julian Upshaw on the other hand (all hereinafter collectively referred to as "the Parties").

Recitals

1. The Plaintiffs are the Plaintiffs and NMDPS and Julian Upshaw are the Defendants in a civil action in the Eleventh Judicial District Court for the County of McKinley, New Mexico, styled Watchman et al. v. New Mexico Department of Public Safety and Julian Upshaw, No. D-1113-CV-2011-525 ("the Litigation").
2. Following a settlement facilitation on July 23, 2013, the Parties have reached agreement on the claims brought and which could have been brought in the Litigation and the Parties wish to completely resolve all differences among them arising out of the incident described in the Complaint filed in the Litigation.

Agreement

3. Payment: In consideration for the releases and covenants contained herein, and for other good, adequate and lawful consideration, the RMD on behalf of NMDPS and Julian Upshaw will pay to Lorraine Watchman, in her capacity as Guardian of Gerilynn Watchman, and Gerilynn Watchman, a minor person, and their attorneys the sum of one-hundred-and-forty-five-thousand dollars (\$145,000); to Lillian Williams, in her capacity as Guardian of Danielle Crain, a minor person, and their attorneys the sum of one-hundred-and-fifty-five-thousand dollars (\$155,000); and to Gerald Watchman and Lorraine Watchman in their individual capacity, the collective amount of three-hundred-and-twenty-five-thousand dollars (\$325,000). NMDPS agrees to pay one-half (1/2) of the cost of a Guardian ad Litem to be appointed by the Court in this case to review this settlement, up to five hundred dollars (\$500).

In consideration of the release set forth above, the Insurer on behalf of the Defendant agrees to pay the sums outlined below:

a. CASH:

Lorraine Watchman, as Guardian/Conservator of Gerilynn Watchman, and her attorneys will be paid by the Insurer \$1,000.00 cash.

Lillian Williams, as Guardian/Conservator of Danielle Crain, and her attorneys will be paid by the Insurer \$2,000.00 cash.

\$2,500.00 into a Court-restricted account for Lorraine Watchman, as Guardian/Conservator of Gerilynn Watchman to receive upon reaching the age of majority.

\$5,000.00 into a Court-restricted account for Danielle Crain to receive upon reaching the age of majority.

b. SUMMARY FOR FUTURE BENEFITS:

Periodic payments to Lorraine Watchman, as Guardian/Conservator of Gerilynn Watchman ("Payee"):

Beginning 04/01/2015, \$1,417.00 semi-annually for 20 years certain and life thereafter (40 guaranteed payments)

Periodic payments to Danielle Crain ("Payee"):

Beginning 03/01/2019, \$2,200.00 semi-annually for 20 years certain and life thereafter (40 guaranteed payments)

\$10,000.00 guaranteed lump sum on 09/12/2019

All sums set forth herein constitute damages on account of personal physical injuries or sickness, within the meaning of §104(a) (2) of the Internal Revenue Code of 1986, as amended.

4. Claimants' Rights to Payments

Claimant acknowledges that the Periodic Payments cannot be accelerated, deferred, increased or decreased by the Claimant or any Payee; nor shall the Claimant or any Payee have the power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by assignment or otherwise.

5. Payee's Beneficiary

Any payments to be made after the death of any Payee pursuant to the terms of this Settlement Agreement shall be made to such person or entity as shall be designated in writing by said Payee to the Insurer or the Insurer's Assignee, upon reaching the age of majority. If no such person or entity is so designated by Payee, or if the person designated is not living at the time of the Payee's death, such payments shall be made to the Estate of the Payee. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The

designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such payments are made.

6. Consent to Qualified Assignment

Claimant acknowledges and agrees that the Defendant and/or the Insurer may make a qualified assignment, within the meaning of §130(c) of the Internal Revenue code of 1986, as amended, of the Defendant's and/or the Insurer's liability to make the Periodic Payments set forth in Section 3b to BHG Structured Settlements, Inc. (the "Assignee"). The Assignee's obligation for payment of the Periodic Payments shall be no greater than that of the Defendant and/or the Insurer (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation.

Any such assignment, if made, shall be accepted by the Claimant without right of rejection and shall completely release and discharge the Defendant and the Insurer from the Periodic Payments obligation assigned to the Assignee. The Claimant recognizes that, in the event of such an assignment, the Assignee shall be the sole obligor with respect to the Periodic Payments obligation, and that all the other releases with respect to the Periodic Payments obligation that pertain to the liability of the Defendant and the Insurer shall thereupon become final, irrevocable and absolute.

7. Right to Purchase an Annuity

The Defendant and/or the Insurer, itself or through its Assignee, reserve the right to fund the liability to make the Periodic Payments through the purchase of an annuity policy from Berkshire Hathaway Life Insurance Company of Nebraska (the "Annuity Issuer"). The Defendant, the Insurer or the Assignee shall be the sole owner of the annuity policy and shall have all rights of ownership. The Defendant, the Insurer or the Assignee may have the Annuity Issuer mail such periodic payments directly to the Payee, who shall be responsible for maintaining a current mailing address with the Annuity Issuer.

8. Discharge of Obligation

The discharge of the obligation of the Assignee to make each Periodic Payment described in Section 3b of this Agreement, if by check, shall occur upon the mailing of a valid check, on or before the due date, in the amount due to the Payee's address as shown in the Assignee's records, or, if by Electronic Funds Transfer (EFT), upon the electronic transferring of such payment, on or before the due date, to the Payee's bank account as shown in the Assignee's records. In the event the check is not received, upon proper notification, annuity issuer will initiate stop payment procedures. Upon confirmation that the check was not cashed and stop payment effected, annuity issuer will reissue a replacement check.

9. Attorney Fees

Each party hereto shall bear all attorneys fees and costs arising from the actions of its own counsel in connection with the claim, this Settlement Agreement and the matters and documents referred to herein.

10. Representation of Comprehension of Documents

In entering into this Settlement Agreement, the Claimant represents that Claimant has relied upon the advice of Claimant's attorneys, who are the attorneys of Claimant's own choice, concerning legal and income tax consequences of this Settlement Agreement; that the terms of this Settlement Agreement have been completely read and explained to Claimant by Claimant's attorneys; and that the terms of this Settlement Agreement are fully understood and voluntarily accepted by Claimant.

11. Warranty of Capacity to Execute Agreement

Claimant represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of actions referred to in this Settlement Agreement, except as otherwise set forth herein; and that Claimant has the sole right and exclusive authority to execute this Settlement Agreement and receive the sum specified in it; and that Claimant has not sold, assigned, transferred, conveyed or otherwise disposed of any claims, demands, obligations, or causes of action referred to in this Settlement Agreement.

12. Governing Law

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of New Mexico.

13. Additional Documents

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement.

14. Entire Agreement and Successors in Interest

This Settlement Agreement contains the entire agreement between the Claimant, the Defendant, and the Insurer with regard to the matters set forth herein and shall be binding

upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

15. Effectiveness

This Settlement Agreement shall become effective following execution by all parties.

16. Release: Lorraine Watchman, being of lawful age, and having the full legal authority to do so on behalf of Gerilynn Watchman; for the consideration stated herein and for other lawful, adequate and sufficient consideration, do hereby and for their respective guardians, conservators, spouses, heirs, executors, personal representatives, administrators, successors and assigns release and forever discharge the NMDPS, Julian Upshaw, and RMD, and their respective agents, employees, servants, attorneys, administrators, predecessors, successors and assigns from all claims brought and which could have been brought in the Litigation and all claims, actions, causes of action, demands, rights, damages, costs, attorney fees and expenses that the Plaintiffs have now or which may hereafter accrue, known or unknown, foreseen or unforeseen, on account of or in any way growing out of the Litigation and the facts alleged therein, whether mature or contingent, perfectly or imperfectly executed. This release covers and includes all claims, joint, several or otherwise, past, present or future, arising out of the Litigation and the facts alleged therein and any and all claims against all Defendants previously dismissed from the Litigation.
17. Release: Lillian Williams, being of lawful age, and having the full legal authority to do so on behalf of Danielle Crain; for the consideration stated herein and for other lawful, adequate and sufficient consideration, do hereby and for their respective guardians, conservators, spouses, heirs, executors, personal representatives, administrators, successors and assigns release and forever discharge the NMDPS, Julian Upshaw, and RMD, and their respective agents, employees, servants, attorneys, administrators, predecessors, successors and assigns from all claims brought and which could have been brought in the Litigation and all claims, actions, causes of action, demands, rights, damages, costs, attorney fees and expenses that the Plaintiffs have now or which may hereafter accrue, known or unknown, foreseen or unforeseen, on account of or in any way growing out of the Litigation and the facts alleged therein, whether mature or contingent, perfectly or imperfectly executed. This release covers and includes all claims, joint, several or otherwise, past, present or future, arising out of the Litigation and the facts alleged therein and any and all claims against all Defendants previously dismissed from the Litigation.
18. Release: Lorraine Watchman, being of lawful age, and having the full legal authority to do so; for the consideration stated herein and for other lawful, adequate and sufficient consideration, do hereby and for their respective guardians, conservators, spouses, heirs,

executors, personal representatives, administrators, successors and assigns release and forever discharge the NMDPS, Julian Upshaw, and RMD, and their respective agents, employees, servants, attorneys, administrators, predecessors, successors and assigns from all claims brought and which could have been brought in the Litigation and all claims, actions, causes of action, demands, rights, damages, costs, attorney fees and expenses that the Plaintiffs have now or which may hereafter accrue, known or unknown, foreseen or unforeseen, on account of or in any way growing out of the Litigation and the facts alleged therein, whether mature or contingent, perfectly or imperfectly executed. This release covers and includes all claims, joint, several or otherwise, past, present or future, arising out of the Litigation and the facts alleged therein and any and all claims against all Defendants previously dismissed from the Litigation.

19. Dismissal: The Plaintiffs, through counsel of record, will, not later than ten days after the receipt of the money referred to above, sign and file a stipulation of dismissal of the Litigation and all claims made therein *with prejudice*.
20. Confidentiality: In accordance with applicable law, with respect to NMDPS, Julian Upshaw, and RMD, this Agreement and the payments hereunder shall remain confidential for a period of one hundred eighty (180) days after the filing of the stipulation of dismissal referred to herein.
21. Taxation and Liens: Neither NMDPS, Julian Upshaw, nor RMD has made any warranties or representations to the Plaintiffs concerning the federal or state income taxability of the payment referred to herein. The Plaintiffs agree to indemnify and hold harmless NMDPS, Julian Upshaw, and RMD from any damages arising out of the Plaintiffs' improper classification of the proceeds of this settlement on any tax return. The Plaintiffs and their attorneys further warrant that there are no outstanding hospital, Medicaid, Medicare, insurance or other liens pending against the proceeds of this Agreement and the Plaintiffs agree to indemnify and hold the NMDPS, Julian Upshaw, and RMD harmless from any such lien claims which may exist, including but not limited to liens by Medicaid, Medicare, the Indian Health Service, the New Mexico Human Services Department, and any and all insurance.
22. Annuities: The Plaintiffs warrant that they have made satisfactory arrangements for the creation of an annuity from which the proceeds of this settlement and release will be paid to Gerilynn Watchman, a minor, and Danielle Crain, a minor. The Plaintiffs agree to indemnify and hold harmless NMDPS, Julian Upshaw, and RMD from any damages arising out of administration of the annuity.
23. Costs and Attorney's Fees: The Parties will each bear their own costs and attorney's fees arising out of the Litigation or in any way incurred in connection with the subject matter of the Litigation.
24. Denial of Liability: The Parties understand and agree that this Agreement shall not be construed as an admission of liability on the part of the NMDPS, Julian Upshaw, and RMD, or any defendant or any person or entity.

25. Authority and Nonassignment: The Parties warrant that each has authority to enter into this Agreement, and that neither has transferred to any other person or entity any claim, action, demand, or cause of action released by this Agreement.
26. Advice of Counsel: The Parties each warrant and represent that they have individually consulted with legal counsel of their choice regarding this Agreement. Neither Party is relying on the legal advice of any other in signing this agreement.
27. Nonreliance: The Parties understand and agree that they assume all risk that the facts or law may be, or become, different than the facts or law as believed by the Parties at the time they execute this agreement. The Parties acknowledge that their adversary relationship precludes any affirmative obligation of disclosure, and expressly disclaim all reliance upon information supplied or concealed by the adverse party or his counsel in connection with the negotiation and/or execution of the Agreement.
28. Additional Warranty and Acknowledgment: Each of the Parties warrants and represents that he has been offered no promise or inducement except as expressly provided in this Agreement, and that this Agreement is not in violation of or in conflict with any other agreement of any of the Parties.
29. Survival of Covenants and Warranties: All covenants and warranties contained in this Agreement are contractual, not mere recitals, and shall survive the closing of this Agreement.
30. Approval by Guardian ad Litem: This Agreement and the obligations to make payments hereunder and to dismiss the Litigation are contingent upon appointment of a Guardian ad Litem and approval of the Court.
31. Miscellaneous:
 - a. Successors and Assigns. This Agreement shall be binding in all respects upon, and shall inure to the benefit of, the Undersigned's heirs, successors and assigns.
 - b. Governing Law. This Agreement shall be governed by the internal laws of the State of New Mexico, irrespective of the choice of law rules of any jurisdiction.
 - c. Severability. In the event that a court of competent jurisdiction enters a final judgment holding invalid any provision of this Agreement, the remainder of this Agreement shall be fully enforceable.
 - d. Integration. This Agreement constitutes the entire agreement of the Undersigned and a complete merger of prior negotiations and agreements.

- e. Modification. This Agreement shall not be modified except in a writing signed by all the undersigned.
- f. Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Agreement, except by a writing signed by the party charged with the waiver or estoppel. No waiver of any breach of this Agreement shall be deemed a waiver of any later breach of the same provision or any other provision of this Agreement.
- g. Headings. Headings are intended solely as a convenience and shall not control the meaning or interpretation of any provision of this Agreement.
- h. Gender and Number. Pronouns contained in this Agreement shall apply equally to the feminine, neuter and masculine genders. The singular shall include the plural, and the plural shall include the singular.
- i. Other Agreements. Each of the Parties shall promptly execute, acknowledge and deliver any additional document or agreement that another Parties reasonably believes is necessary to carry out the purpose or effect of this Agreement.
- j. Construction. The Parties acknowledge that they and their respective counsel have reviewed this Agreement in its entirety and have had a full and fair opportunity to negotiate its terms. Each party thereof waives all applicable rules of construction that any provision of this Agreement should be construed against its drafter, and agrees that all provisions of the Agreement shall be construed as a whole, according to the fair meaning of the language used.
- k. Counterparts and Faxes: The Parties agree that this Agreement may be executed in counterparts, or by copies transmitted by fax, all of which shall be given the same force and effect as the original.

I have read and understand and agree to the foregoing Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Settlement Agreement in multiple originals.

LORRAINE WATCHMAN, individually

Lorraine Watchman
Date: 10-23-13

W Gerald Watchman, individually
8 Gerald Watchman
Date: 10/23/13

and Gerald Watchman
LORRAINE WATCHMAN as Guardian of
GERILYNN WATCHMAN

Lorraine Watchman
Date: 10-23-13

Gerald Watchman
Date: 10/23/13
GERILYNN WATCHMAN

Date: _____

Lillian Williams, as Guardian of DANIELLE
CRAIN

Lillian Williams
Date: 10/22/13

DANIELLE CRAIN

Date: _____

A. WILLIAM KEELER, Attorney for the
PLAINTIFFS

A to Form
Date: 10-22-13

NEW MEXICO DEPARTMENT OF
PUBLIC SAFETY

By _____

Its _____

Date: _____

RISK MANAGEMENT DIVISION of the General
Services Department of the State of New Mexico

By _____

Date: _____